## STATE OF NEW YORK

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8096

## IN SENATE

March 28, 2018

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to adding possession of a flamethrower to the crime of criminal possession of a weapon in the fourth degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 265.00 of the penal law is amended by adding four 2 new subdivisions 26, 27, 28 and 29 to read as follows:
- 3 <u>26. "Flamethrower" means a device capable of projecting a stream of</u>
  4 <u>burning fuel a distance of at least three feet. Inoperable display units</u>
  5 <u>shall not be considered "flamethrowers" for the purposes of this</u>
  6 <u>section.</u>
- 7 27. "Historical flamethrower" means a flamethrower constructed, in 8 whole or in substantial part, of components manufactured prior to nine-9 teen hundred sixty-six.
- 10 <u>28. "Substantial part" means constructed with at least five signif-</u> 11 icant components manufactured prior to nineteen hundred sixty-six.
- 12 <u>29. "Significant components" means fully functional and necessary</u> 13 <u>parts for the operation of a flamethrower including:</u>
- 14 (a) fuel cell;
- 15 **(b)** gas caps;
- 16 (c) pressure regulator;
- 17 (d) pressure bottle;
- 18 <u>(e) hose;</u>
- 19 <u>(f) wand fuel valve;</u>
- 20 <u>(g) barrel;</u>
- 21 (h) front grip;
- 22 (i) ignition shield; and
- 23 (j) rear grip.
- 24 § 2. The penal law is amended by adding a new section 265.41 to read
- 25 as follows:
- 26 <u>§ 265.41 Criminal possession of a flamethrower.</u>

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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A person is guilty of criminal possession of a flamethrower when he or 1 2 she possesses a flamethrower; provided, however, that nothing in this 3 section shall prohibit the manufacture, remanufacture, restoration or alteration of flamethrower components. This section shall not apply to historical flamethrowers, flamethrowers used for agricultural or 6 construction purposes or any flamethrower lawfully acquired and possessed prior to the effective date of this section. 8

Criminal possession of a flamethrower is a class E felony.

9 § 3. This act shall take effect on the one hundred twentieth day after 10 it shall have become a law.